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ATTORNEY DOCKET No. 0756 C PCT Cont. US

SEP 14 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of                      Christoph RABER  
Serial No.                                      10/040,771  
Filed    January 9, 2002  
For    MOTION TRANSMITTING APPARATUS  
Primary Examiner                              Mr. Rodney H. BONCK  
Art Unit     3681

RENEWED PETITION UNDER TITLE 37 of CFR 1.178(a)(3)

Hon. Commissioner of Patents  
P.O.Box 1450  
Alexandria, Virginia 22313-1450

Attention: Mr. Cliff Congo  
Petitions Attorney  
Office of Petitions

Sir:

This Petition is submitted in an attempt to satisfy the requirements in the paragraph entitled "Priority" on page 2 of the Official Action (Paper No. 8) dated July 9, 2003.

(1) Your petitioners believe that they have complied with the provision of 37 CFR 1.78(a)(3)(i). Please refer to page 2 of the Amendment dated May 27, 2003.

(2) A part (namely \$1280.00) of the presently prescribed surcharge was enclosed with the original Peti-

tion dated July 21, 2003, a copy of which is enclosed for the Petitions Attorney's convenience, together with a copy of the DECISION ON PETITION dated August 9, 2004 and received by the undersigned on August 17 (sic!), probably due to the ravages caused by the hurricane Charlie which has ravaged parts of Florida on August 13 and 14, 2004. The DECISION confirms that the petitioners have submitted \$1,280.

(3) The DECISION of August 9, 2004 contains the requirement to submit the balance of the petition fee due, namely \$50.00. The undersigned attorney herewith respectfully requests that the amount of \$50.00 (and/or any additional amount due to satisfy the request to consider the original Petition) be charged to the account No. 11-1545 of the undersigned attorney. On July 21, 2002 (namely on the date of the original Petition), the Account No. 11-1545 of the undersigned contained \$571.50, and the present amount is in excess of \$700.00 (a deposit in the amount of \$500.00 was made on August 31, 2004 pursuant to the telephone conference with the Petitions Attorney which took place on August 31 and during which the Petitions Attorney informed the undersigned that a further rise in the amount of the prescribed petition fee can be expected in the near future).

(4) The entire delay between the date the claim for priority was due under 37 CFR 1.78(a)(2)(ii) and the date of the original Petition dated July 21, 2003 (as well as the date between the original Petition and the present Renewed Petition) was unintentional. Your petitioners sincerely believe that this statement satisfies the provisions of 37 CFR 1.78(3)(a)(iii) and that it is substantiated by the Primary Examiner's explanations on page 2 of Paper No. 8. Thus, the Primary Examiner observed that he was previously under the impression that a reference in the specification to the parent application in order to obtain the benefit of prior filing under 35 USC 120 "was the only thing lacking in applicant's priority claim". Such reference has been made on page 2 of the amendment dated May 27, 2003.

An amendment in response to all other passages of Paper No. 8 was filed on July 21, 2003. A copy of such amendment is enclosed herewith for the Petitions Attorney's convenience.

The undersigned attorney has attempted to contact the Petitions Attorney, Mr. Cliff Congo, on the day (August 17, 2004) of receipt of Decision of August 9, 2004. The answer which was received upon dialing the phone No. (703) 305-0272 included instructions to call again on

August 30, 2004 because Mr. Congo was on vacation. A similar answer was received in the morning of August 31, 2004; therefore, the undersigned made another attempt on August 31, 2004 and was successful in reaching Mr. Congo at or about 12:15 PM. Certain relevant parts of the conference of August 31, 2004 with Mr. Congo are pointed out in paragraph (3) on page 2 of this RENEWED PETITION.

A favorable disposition at a reasonably early date is earnestly solicited.

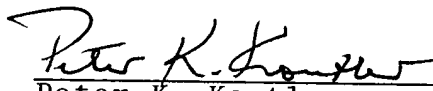
This document is being sent by mail to the address which is furnished on page 2 of the DECISION ON PETITION dated August 9, 2004

Dated: September 1, 2004

Enclosures:

- (1) Copy of amendment dated July 21, 2003
- (2) Copy of Petition dated July 21, 2003
- (3) Copy of Decision dated August 9, 2004
- (4) Return post card

Respectfully submitted,

  
Peter K. Kontler  
Reg. No. 20,384  
Attorney for Petitioners  
Telephone (239) 262-8492  
Facsimile (239) 434-6747  
Address:  
4401 Gulf Shore Blvd. North  
Naples, FL 34103-3450

P.S.:

Copies of the (adverse) DECISION dated August 9, 2004 and of the RENEWED PETITION dated September 1, 2004 were mailed to the Primary Examiner Mr. Rodney H. Bonck under separate cover on September 1, 2004.



ATTORNEY DOCKET No. 0756 C PCT Cont. US SEP 14 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of      Christoph RABER  
Serial No.                      10/040,771  
Filed                            January 9, 2002  
For                               MOTION TRANSMITTING APPARATUS  
Primary Examiner              Mr. Rodney H. BONCK  
Art Unit                         3681

PETITION UNDER TITLE 37 OF CFR 1.78(a)(3)

Hon. Commissioner for Patents  
P.O.Box 1450  
Alexandria, Virginia 22313-1450

Sir:

This Petition is submitted in an attempt to satisfy the requirements in the paragraph entitled "Priority" on page 2 of the Official Action (Paper No. 8) dated July 9, 2003.

(1) Your petitioners believe that they have complied with the provision of 37 CFR 1.78(a)(3)(i). Please refer to page 2 of the Amendment dated May 27, 2003.

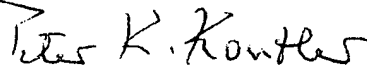
(2) The surcharge in the amount of \$1280.00 is enclosed herewith. This is believed to satisfy the provisions of 37 CFR 1.78(a)(3)(ii).

(3) The entire delay between the date the claim for priority was due under 37 CFR 1.78(a)(2)(ii) and the date of this Petition was unintentional. Your petitioners sincerely believe that this statement satisfies the provisions of 37 CFR 1.78(3)(a)(iii) and that it is substantiated by the Primary Examiner's explanations on page 2 of Paper No. 8. Thus, the Primary Examiner observed that he was previously under the impression that a reference in the specification to the parent application in order to obtain the benefit of prior filing under 35 USC 120 "was the only thing lacking in applicant's priority claim". Such reference has been made on page 2 of the amendment dated May 27, 2003.

An amendment in response to all other passages of Paper No. 8 is enclosed herewith.

A favorable disposition at a reasonably early date is earnestly solicited.

Respectfully submitted,



Peter K. Kontler  
Reg. No. 20,384  
Attorney for Petitioners  
Telephone (239) 262-8492  
Facsimile (239) 434-6747  
Address:  
4401 Gulf Shore Blvd. North  
Naples, FL 34103-3450

Dated: July 21, 2003

(By registered mail)

Enclosures:

- (1) Check for \$1280.00
- (2) Amendment
- (3) Return post card



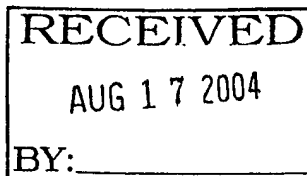
PETER K. KONTLER OR LISELOTTE G. KONTLER	2867	Date <u>July 21, 2003</u> 63-27/631 R 65
Pay to the Order of Commissioner of Patents	\$1280.00	
Onethousandtwohundredeighty and no/100-----Dollars <input type="checkbox"/>		
<b>Bank of America</b> ACH RIT 063100277 Petition under Title 37 For No. 10/640,771 (G. Rabeir) PK 10/640,771 (G. Rabeir)	<b>Bank of America Advantage™</b> <i>Liselotte G. Kontler</i> MP	
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UNITED STATES PATENT AND TRADEMARK OFFICE



Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

Paper No. 8

PETER K KONTLER  
4401 GULF SHORE BLVD NORTH  
NAPLES FL 34103-3450

COPY MAILED

AUG 09 2004

OFFICE OF PETITIONS

In re Application of  
Christoper Raber  
Application No. 10/040,771  
Filed: January 9, 2002  
Attorney Docket No. 0756 C PCT Cont. US

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DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 25, 2003, (Certificate of Mailing dated June 30, 2003), to accept an unintentionally delayed claim under U.S.C. §§ 120 and 365(c) for the benefit of International Application No. PCT/DE00/02275, filed July 7, 2000.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.78(a)(3)."

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:



- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant application does not comply with item (2) above.

Petitioner has not submitted the full amount of the petition fee. Accordingly, the petition can not be considered on the merits. At the time of filing the petition, the petition fee was \$1,300. Petitioner submitted \$1,280. No authorization to charge a deposit account could be found in the application file.

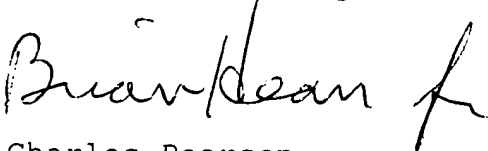
Currently, the petition fee is \$1,330. If petitioner desires to file a renewed petition, petitioner must submit the balance of the petition fee due, or \$50.

Further correspondence with respect to this matter should be addressed as follows:

By mail:           Mail Stop Petitions  
                  Commissioner for Patents  
                  P.O. Box 1450  
                  Alexandria VA 22313-1450

By FAX:           (703) 872-9306  
                  Attn: Office of Petitions

Telephone inquiries concerning this matter should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.



Charles Pearson  
Director  
Office of Petitions